

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

Mark Hay and Paul Brown, individually and on
behalf of all others similarly situated,

Plaintiffs,

vs.

United Development Funding IV, et al.

Defendants.

No. 4:16-cv-00188-M

Honorable Barbara M. G. Lynn

MOTION TO EXTEND STAY OF PROCEEDINGS

Plaintiffs Mark Hay and Paul Brown (“Plaintiffs”) and the undersigned parties named as Defendants in the Amended Class Action Complaint (collectively, the “Parties”), by and through their respective counsel, hereby move the Court for an Order (i) staying all proceedings in this action for an additional period of 45 days for the purpose of affording the Parties an opportunity to continue their consideration and discussion of the possible early resolution of this matter; and (ii) granting all Defendants a period of 45 days after the conclusion of the stay of proceedings within which to move, answer or otherwise respond to the Amended Class Action Complaint. In support thereof, the Parties state as follows:

1. The original Complaint in this action was filed by Plaintiff Mark Hay on March 8, 2016, alleging, *inter alia*, violations of the Texas Securities Act. ECF No. 1. This action initially was assigned to the docket of the Honorable Judge Reed C. O’Connor.

2. On June 8, 2016, Plaintiff Mark Hay, joined by Plaintiff Paul Brown, filed an Amended Class Action Complaint (the “Amended Complaint”). ECF No. 25.

3. As a result of telephonic conferences occurring in this action in June 2016, the Parties agreed to discuss and consider the possible early resolution of this matter and the possibility of engaging in formal mediation. The Parties reached this agreement without waiver of any arguments, contentions, claims or defenses, and with each of the Parties reserving all rights in the event their discussions prove unproductive.

4. On July 7, 2016, the Parties filed a Joint Report and Motion to Stay Proceedings in which the Parties moved the Court for an Order staying all proceedings in this action for a period of 120 days for the purpose of affording the Parties an opportunity to consider and discuss the possible early resolution of this matter and, if warranted, to initiate formal mediation. ECF No. 34.

5. On July 19, 2016, the Court entered an Order granting the Joint Report and Motion to Stay Proceedings. ECF No. 35.

6. Following the selection of a mediator and agreement upon a date convenient for the Parties and the mediator, on November 9, 2016, the Parties engaged in mediation conducted by David Seidler, currently of the law firm of Lacy Lyster Malone & Steppick, PLLC.¹ The mediation was attended by counsel for Plaintiffs, counsel for the UDF Entity Defendants² and the UDF Independent Trustees,³ counsel for defendant Whitley Penn LLP, counsel for defendants AR Capital, LLC and American Realty Capital Residential Advisors, LLC, counsel

¹ At the time of the mediation, Mr. Seidler was with the law firm of Shannon, Gracey, Ratliff & Miller, LLP.

² The UDF Entity Defendants include defendants United Development Funding IV, United Development Funding Income Fund V, UMT Services, Inc., UMTH General Services, L.P., UMTH Land Development, L.P., UMT Holdings, L.P., UDF Holdings, L.P., UDFH General Services, L.P., and UDFH Land Development, L.P.

³ The UDF Independent Trustees include defendants Phillip K. Marshall, Steven J. Finkle, and J. Heath Malone.

for defendant Centurion American Development Group, and counsel for various individual defendants. Also in attendance were (i) counsel for the Lead Plaintiff in the Consolidated Securities Litigation; (ii) counsel for the plaintiffs in a shareholder derivative action styled *Richard Evans v. Hollis M. Greenlaw, et al.*, Case No. 3:16-cv-00635-M (pending in the United States District Court for the Northern District of Texas)⁴; and (iii) counsel representing plaintiffs in three shareholder derivative actions purportedly brought on behalf of United Development Funding IV and pending in Tarrant County, Texas,⁵ in which certain of the undersigned defendants also have been named.

7. On November 16, 2016, the Parties filed a Motion to Extend Stay of Proceedings seeking an extension of an additional 45 days for the purpose of affording the Parties an opportunity to continue their consideration and discussion of the possible early resolution of this matter. ECF No. 37.

8. On November 21, 2016, the Court entered an Order granting the Motion to Extend Stay of Proceedings. ECF No. 38.

9. Pursuant to the Court's November 21, 2016 Order granting the Motion to Extend Stay of Proceedings, the stay of proceedings ended on January 3, 2017, followed by a period of

⁴ By Order of this Court entered May 18, 2016, the *Evans* Derivative Action was stayed pending final judgment or other final order in the Consolidated Securities Litigation. *Evans* Derivative Action, ECF No. 47. The Second Amended Class Action Complaint of the Lead Plaintiff in the Consolidated Securities Litigation currently is not due to be filed until 60 days after United Development Funding IV releases its audited financial statements for the annual period ending December 31, 2015, and for the quarter ending March 31, 2016. (Consolidated Securities Litigation, ECF No. 45.)

⁵ Those actions are styled *John Floreale v. Hollis M. Greenlaw, et al.*, Cause No. 342-284220-16 (pending in the 342nd District Court in Tarrant County, Texas); *Kenneth Knoll v. Hollis M. Greenlaw, et al.*, Cause No. 048-286599-16 (pending in the 48th District Court in Tarrant County, Texas); and *Ted Frey v. Hollis M. Greenlaw, et al.*, Cause No. 096-287723-16 (pending in the 96th District Court in Tarrant County, Texas).

45 days within which Defendants are to move, answer or otherwise respond to the Amended Complaint.

10. Since the November 9, 2016 mediation, the parties to the various litigations have continued to discuss the possible early resolution of the matters pending before this Court. Although the parties to the various litigations have been unable to reach agreement to date, the Parties believe that further discussions, including possible additional mediation sessions before Mr. Seidler, are warranted. In light of the foregoing, the Parties respectfully request: (i) a stay of all proceedings in this action for an additional period of 45 days to afford the Parties the opportunity to further explore the possible early resolution of this matter; and (ii) in the event the Parties are unable to reach an early resolution of this matter during the requested stay of proceedings, that all Defendants be granted a period of 45 days from the conclusion of the requested stay within which to move, answer or otherwise respond to the Amended Class Action Complaint.

11. The relief requested herein is sought in good faith, in the interest of judicial economy, and not for purposes of delay. No prejudice will result from the granting of the requested relief. None of the Parties are opposed to the relief sought herein.

WHEREFORE, Plaintiffs Mark Hay and Paul Brown and the undersigned Defendants respectfully move the Court for an Order (i) staying all proceedings in this action for an additional period of 45 days for the purpose of affording the Parties an opportunity to continue their consideration and discussion of the possible early resolution of this matter; and (ii) granting all Defendants a period of 45 days after the conclusion of the stay of proceedings within which to move, answer or otherwise response to the Amended Class Action Complaint.

Dated: January 12, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to Local Rule 5.1(d), I certify that all counsel of record who have appeared in this case received a copy of this document via the Court's CM/ECF system on January 12, 2017.

/s/ John R. Hardin

John R. Hardin